

1	Christopher C. Wheeler (State Bar No. 224872) cwheeler@fbm.com	Mark R. Conrad (State Bar No. 255667) mconrad@connmetkane.com
2	Dylan M. Silva (State Bar No. 306363) dmsilva@fbm.com	CONRAD METLITZKY KANE LLP 217 Leidesdorff Street San Francisco, CA 94111 Telephone: (415) 343-7100 Facsimile: (415) 343-7101
3	Farella Braun + Martel LLP One Bush Street, Suite 900 San Francisco, CA 94104 Telephone: (415) 954-4400 Facsimile: (415) 954-4480	Antony L. Ryan (pro hac vice) aryan@cravath.com
4		Kevin J. Orsini (pro hac vice) korsini@cravath.com
5		Brittany L. Sukiennik (pro hac vice) bsukiennik@cravath.com
6	Olivia S. Choe (pro hac vice) ochoe@milbank.com	CRAVATH, SWAINE & MOORE LLP Two Manhattan West 375 Ninth Avenue New York, NY 10001 Telephone: (212) 474-1000 Facsimile: (212) 474-3700
7	Joshua B. Sterling (pro hac vice) jsterling@milbank.com	
8	MILBANK LLP 1101 New York Avenue, NW Washington D.C. 20005 Telephone: (202) 835-7500 Facsimile: (202) 263-7586	
9		
10		
11	Grant R. Mainland (pro hac vice) gmainland@milbank.com	Mithun Mansinghani (pro hac vice) mithun@lkcfirm.com
12	Karen Wong (pro hac vice) kwong3@milbank.com	LEHOTSKY KELLER COHN LLP 629 W. Main Street Oklahoma City, OK 73102 Telephone: (512) 693-8350
13	MILBANK LLP 55 Hudson Yards New York, NY 10001 Telephone: (212) 530-5000 Facsimile: (212) 530-5219	
14		
15		
16	Attorneys for Defendants KALSHI INC.,	Attorneys for Defendants Robinhood Markets, Inc., and Robinhood Derivatives LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

21 BLUE LAKE RANCHERIA, CHICKEN
22 RANCH RANCHERIA OF ME-WUK
INDIANS, and PICAYUNE RANCHERIA
OF THE CHUKCHANSI INDIANS.

Plaintiffs,

VS.

26 KALSHI INC., KALSHIEX LLC,
27 ROBINHOOD MARKETS, INC.,
ROBINHOOD DERIVATIVES LLC, and
DOES 1-20

Defendants.

Case No. 3:25-cv-06162-JSC

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' NOTICE OF
SUPPLEMENTAL AUTHORITY IN
SUPPORT OF PLAINTIFF TRIBE'S [SIC]
MOTION FOR A PRELIMINARY [SIC]
INJUNCTION**

1 Defendants Kalshi Inc., KalshiEX LLC, Robinhood Markets, Inc., and Robinhood
 2 Derivatives LLC (“Defendants”) object to Plaintiffs’ purported Notice of Supplemental Authority
 3 (ECF No. 65 (the “Notice”)). The Notice submits as supplemental authority an opinion in *North*
 4 *American Derivatives Exchange v. Nevada*, No. 2:25-cv-00978 (D. Nev. Oct. 14, 2025) (the “*Crypto*
 5 Opinion”). The Notice is procedurally improper. It cites to “L.R. 230(m)(1),” but the relevant Civil
 6 Local Rule regarding the submission of supplemental authority is Civil Local Rule 7-3(d)—
 7 “Supplementary Material”—which provides:

8 Once a reply is filed, no additional memoranda, papers or letters may be
 9 filed without prior Court approval, except as follows:

10 (2) ***Before the noticed hearing date***, counsel may bring to the Court’s
 11 attention a relevant judicial opinion ***published after the date the opposition***
 12 ***or reply was filed*** by filing and serving a Statement of Recent Decision.
 13 Such Statement shall contain a citation to and provide a copy of the new
 14 opinion ***without argument***. (Emphases added.)

15 The Notice flouts these requirements in three respects: (1) it submits authority ***after*** the noticed
 16 hearing date; (2) the authority in question was published ***before*** Plaintiffs’ reply was filed; and (3)
 17 the Notice contains argument as to why the authority is supposedly relevant. The Notice should be
 18 disregarded and stricken.

19 If the Court were to consider the Notice, Defendants request leave to make the following
 20 observations. First, any issue relating to the proper interpretation of 17 C.F.R. § 40.11—a regulation
 21 promulgated by the CFTC pursuant to the CEA—is irrelevant to whether Plaintiffs are likely to
 22 succeed on the merits of their IGRA claim. Moreover, 17 C.F.R. § 40.11(c) in fact gives the CFTC
 23 discretion to review and approve such contracts upon self-certification by a DCM. Second, the
 24 *Crypto* Opinion affirmed the Nevada court’s prior ruling that the “plain and unambiguous” language
 25 of the CEA gives the CFTC exclusive jurisdiction over swaps traded on DCMs. Opinion at 16
 26 (quoting *KalshiEX LLC v. Hendrick*, 2025 WL 1073495, at *5 (D. Nev. Apr. 9, 2025)). In the *Crypto*
 27 Opinion, the Nevada court determined that a different DCM’s event contracts did not qualify as
 28

1 swaps under the CEA's definition. Plaintiffs here have nowhere alleged that Kalshi's event contracts
 2 do not qualify as swaps. The *Crypto* Opinion is irrelevant to this case for this additional reason.

3 Dated: October 27, 2025

4 Respectfully submitted,

5 /s/ Christopher C. Wheeler

6 Christopher C. Wheeler (SBN 224872)
 cwheeler@fbm.com
 7 Dylan M. Silva (SBN 306363)
 dmsilva@fbm.com
 8 FARELLA BRAUN + MARTEL LLP
 One Bush Street, Suite 900
 9 San Francisco, CA 94104
 Telephone: (415) 954-4400
 10 Facsimile: (415) 954-4480

11 Olivia S. Choe (pro hac vice)
 ochoe@milbank.com
 12 Joshua B. Sterling (pro hac vice)
 jsterling@milbank.com
 13 MILBANK LLP
 14 1101 New York Avenue, NW
 Washington, D.C. 20005
 15 Telephone: (202) 835-7500
 16 Facsimile: (202) 263-7586

17 Grant R. Mainland (pro hac vice)
 gmainland@milbank.com
 18 Karen Wong (pro hac vice)
 kwong3@milbank.com
 19 MILBANK LLP
 20 55 Hudson Yards
 New York, NY 10001
 21 Telephone: (212) 530-5000
 22 Facsimile: (212) 530-5219

23 *Attorneys for Defendants Kalshi Inc.
 and KalshiEX LLC*

1 /s/ Mark R. Conrad2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mark R. Conrad (SBN 255667)
 mconrad@conmetkane.com
 CONRAD | METLITZKY | KANE LLP
 217 Leidesdorff Street
 San Francisco, CA 94111
 Telephone: (415) 343-7100
 Facsimile: (415) 343-7101

Antony L. Ryan (pro hac vice)
 aryan@cravath.com
 Kevin J. Orsini (pro hac vice)
 korsini@cravath.com
 Brittany L. Sukiennik (pro hac vice)
 bsukiennik@cravath.com
 CRAVATH, SWAINE & MOORE LLP
 Two Manhattan West
 375 Ninth Avenue
 New York, NY 10001
 Telephone: (212) 474-1000
 Facsimile: (212) 474-3700

Mithun Mansinghani (pro hac vice)
 mithun@lkcfirm.com
 LEHOTSKY KELLER COHN LLP
 629 W. Main Street
 Oklahoma City, OK 73102
 Telephone: (512) 693-8350

*Attorneys for Defendants Robinhood Markets,
 Inc., and Robinhood Derivatives LLC*